IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, :

:

: Case No.: 1:07 CR 00093 SLR

VS.

:

JONATHAN MCKINNEY

Defendant

ORDER

AND NOW, this day of , 2005, upon Motion of the Defendant, Jonathan

McKinney, it is hereby ORDERED and DECREED as follows:

- **1.** Failure to grant this request for a continuance would result in a miscarriage of justice, 18 U.S.C. sec. 3161 (h) (8) (B).
- 2. Under the Speedy Trial Rule, 18 U.S.C. secs. 3161 (h)(8)(A), (B) and (C), the period of delay resulting from the continuance is excludable where granting the continuance serves the ends of justice and outweighs the best interest of the public and the defendant in a speedy trial.
- 3. The time by which Jonathan McKinney shall file his pre-trial motions is extended to December 19, 2007.

By The Court:		
Sue L. Robinson, J.		

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UNITED STATES OF AMERICA, :

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VS.

:

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Defendant

DEFENDANT'S MOTION TO ENLARGE TIME

IN WHICH TO FILE PRE-TRIAL MOTIONS

- 1. The defendant, Jonathan McKinney, is charged with possession of child pornography.
- **2.** The defendant is incarcerated at the request of the Government, although a bail motion is presently pending.
- **3.** The present time by which all pre-trial motions must be filed is October 19, 2007.
- **4.** Discovery has been virtually non-existent on the part of the Government.
- 5. The Defendant is waiting for the Government to respond to a request for discovery that it is hoped will allow the Defendant to meaningfully examine the electronic media and other evidence. Until there is a valid and meaningful response to this discovery request, the Defendant cannot go forward in the preparation of his defense.
- 6. The Government has denied the Defendant his statutory right to have the material "reasonably available" to him under 18 U.S.C. section 3509 (m) (2) (A) because the Government has not provided "ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his

or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial." 18 U.S.C. section 3509 (m) (2) (B).

- **7.** Meaningful pre-trial motions cannot possibly be prepared and filed by October 19, 2007.
- **8.** Failure to grant the continuance would deny counsel for the defendant the reasonable time necessary for preparing effectively to represent this defendant in this matter.
- **9.** Failure to grant this request for a continuance would result in a miscarriage of justice, 18 U.S.C. sec. 3161(h) (A), (B), (C).
- 10. The Government has been made aware that this motion shall be filed but has ignored repeated requests by Defendant, through his counsel, to state its position on this request.

WHEREFORE, the defendant, Jonathan McKinney, respectfully requests that the time in which he has to file motions be enlarged to December 19, 2007.

Respectfully submitted,

PERLSTEIN LAW

By: __S/____

Paul M. Perlstein, Esq.

Attorney for Defendant, Jonathan McKinney

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, :

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JONATHAN MCKINNEY

VS.

Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the Defendant's Motion was made on Edmond Falgowski, A.U.S.A., the attorney of record for the Government, via the Electronic Court Filing System (ECF) on October 10, 2007.

PERLSTEIN LAW

By:	S/		
٠		I. Perlstein, Esq.	,